



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,971	07/30/2003	Glenn Morris	500699.000009(44900-P001U)	9526
61060	7590	09/19/2006	EXAMINER	
WINSTEAD SECHREST & MINICK P.C. P.O. BOX 50784 DALLAS, TX 75201			YAM, STEPHEN K	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/629,971

SEP 19 2006

Filing Date: July 30, 2003

GROUP 2800

Appellant(s): MORRIS, GLENN

Robert A. Voigt, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 21, 2006 appealing from the Office action mailed June 22, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

This appeal involves claims 1-8 and 10-17.

Claims 9 and 18 are allowed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,690,003	ZAK	2-2004
5,541,695	TEREMY	7-1996

Art Unit: 2878

5,079,646	SCHWARTZ	1-1992
5,526,749	TEETZEL	6-1996
2003/0122665	KAJE	7-2003
2002/0124779	PERKINS	9-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Zak US Patent No. 6,690,003.

Regarding Claims 1 and 10, Zak teaches (see Fig. 1, 3) a laser light actuation system and method for remotely and selectively actuating a function of a known apparatus (50) (see Col. 3, lines 47-51), the system and method comprising a laser module (10) adapted to produce a known laser light signal suitable for transmission over a long distance (see Col. 2, lines 56-62), and a receiver module (20) adapted to receive and detect the known laser light signal and selectively produce an actuation signal in response to the known laser light signal to selectively actuate such an apparatus (see Col. 3, lines 12-15), the receiver module further comprising a timer (30) operatively associated with the receiver module to selectively limit the time of actuation of such an apparatus in response to the laser light signal (see Col. 3, lines 17-21).

2. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak in view of Applicant's admitted prior art.

Regarding Claims 2 and 11, Zak teaches the system and method in Claims 1 and 10, according to the appropriate paragraph above. Zak also teaches the system for use in an industrial environment (see Col. 4, lines 29-31). Zak does not teach an electromechanical feeder operatively associated with the receiver module and adapted to be selectively actuated to release feed in response to detection of the known laser light signal by the receiver module. Applicant's admitted prior art teaches (see Fig. 1) a system with an electromechanical feeder (19) operatively associated with a receiver module (16) and adapted to be selectively actuated to release feed in response to detection of a known signal by the receiver module (see Paragraph 0002, 0005). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an electromechanical feeder operatively associated with the receiver module and adapted to be selectively actuated to release feed in response to detection of the known signal by the receiver module, as taught by Applicant's admitted prior art, in the system of Zak, to provide remote control of devices in an agricultural environment.

3. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak in view of Teremy et al. US Patent No. 5,541,695.

Regarding Claims 3 and 12, Zak teaches the system and method in Claims 1 and 10, according to the appropriate paragraph above. Zak does not teach the laser module is adapted to produce a known, sparsely modulated laser light signal. Teremy et al. teach (see Fig. 1 and 3-5) a similar system and method, with a laser module (10) producing a known, sparsely modulated laser light signal (see Fig. 4 and 5 and Col. 3, lines 55-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the laser module adapted to

Art Unit: 2878

produce a known, sparsely modulated laser light signal, as taught by Teremy et al., in the system and method of Zak, to provide multiple control signal types for each device to provide additional control of functionality, as taught by Teremy et al. (see Col. 2, line 64 to Col. 3, line 7, Col. 3, line 55 to Col. 4, line 12).

4. Claims 4-6 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak (in view of Teremy et al. for Claims 3 and 12 or in view of Applicant's admitted prior art for Claims 5 and 14) in view of Schwartz US Patent No. 5,079,646.

Regarding Claims 4-6 and 13-15, Zak (in view of Teremy et al. for Claims 3 and 12 or in view of Applicant's admitted prior art for Claims 5 and 14) teaches the system and method in Claims 1, 2, 10, and 11, according to the appropriate paragraph above. Zak does not teach a telescopic sight operatively associated with the laser module to accommodate selective directing of the known laser light signal through use of the telescopic sight. Schwartz teaches a telescopic sight operatively associated with a laser module to accommodate selective directing of the laser light signal through use of the telescopic sight (see Col. 1, lines 39-46 and Col. 1, line 66 to Col. 2, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a telescopic sight operatively associated with the laser module to accommodate selective directing of the known laser light signal through use of the telescopic sight, as taught by Schwartz, in the system and method of Zak (in view of Teremy et al. for Claims 3 and 12 or in view of Applicant's admitted prior art for Claims 5 and 14), to increase the accuracy and range for operating the laser module by an operator.

5. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak in view of Teetzel US Patent No. 5,526,749.

Regarding Claims 7 and 16, Zak teaches the system and method in Claims 1 and 10, according to the appropriate paragraph above. Zak does not teach a detonator operatively associated with the receiver module and adapted to be selectively actuated to detonate in response to detection of the known laser light signal by the receiver module. Teetzel teaches an explosive device with a detonator (see Col. 4, lines 54-56) operatively associated with a receiver module (114) and adapted to be selectively actuated to detonate in response to detection of a known laser light signal by the receiver module (see Abstract and Col. 4, lines 31-37, 54-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a detonator operatively associated with the receiver module and adapted to be selectively actuated to detonate in response to detection of the known laser light signal by the receiver module, as taught by Teetzel in the system and method of Zak, to provide remote actuation of an explosive device for accurate detonation.

6. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaje US Pre-grant Publication No. 2003/0122665 (hereinafter Kaje '665) in view of Official Notice, as evidenced by Perkins US Pre-grant Publication No. 2002/0124779.

Regarding Claims 8 and 17, Kaje '665 teaches (see Fig.) a laser light actuation system and method for remotely and selectively actuating a function of a known electromechanical gate (see Claim 1, line 2 of Kaje), the system and method comprising a laser module (1) adapted to produce a known laser light signal (2) suitable for transmission over a long distance (see Fig.), a

laser receiver module (3) adapted to receive and detect (see Paragraph 0017) the known laser light signal selectively produce an actuation signal (to the gate/door/barrier) (see Abstract, lines 4-7) in response to the known laser light signal to selectively actuate such an electromechanical gate operatively associated with the laser receiver module and adapted to be selectively actuated in response to the detection of the known laser light signal by the laser receiver module (see Paragraph 0017 and Claim 1, lines 1-5 of Kaje), and wherein the laser receiver module is adapted to be positioned in use in a location known to a user (see Fig.). Kaje does not teach the laser receiver module in a *selectively concealed* location known to a user. It is well known in the art to conceal a security device in a location only known to individuals who are permitted entry, to prevent tampering of the device and the knowledge of the existence of the device in defeating the security device, as evidenced by Perkins, which teaches concealing a security device in a location only known to individuals who are permitted entry (see Paragraph 0006, 0007 and 0024), to prevent tampering of the device and the knowledge of the existence of the device in defeating the security device (see Paragraph 0006 and 0024). It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the laser receiver module in a *selectively concealed* location known to a user, as taught by Official Notice and evidenced by Perkins, in the system and method of Kaje, to increase the security of the secured areas by preventing unauthorized individuals from having knowledge of the security device and tampering with it.

(10) Response to Argument

Claims 1 and 10

Regarding Appellant's arguments on Claims 1 and 10, Appellant argues that Zak does not disclose a timer for selectively limiting the time of actuation of an apparatus as recited in Claims 1 and 10. Appellant contends that "*while Zak teaches that a monostable multivibrator may be used to achieve a timed ON actuation, this is not the same as selectively limiting the time of actuation*" (Appeal Brief, Page 6, lines 11-13). Appellant also contends Examiner's interpretation of Zak with reference to Claims 1 and 10, as Examiner had stated in the prior office action that "*the laser light signal is the selection mechanism for selecting to limit the time of actuation of such an apparatus*" (quoted by Appellant in Appeal Brief, Page 6, lines 19-23). Appellant therefore contends that "*as recited in claims 1 and 10, it is the timer in the receiver module that selectively limits the time of actuation which is performed in response to the laser light signal*" (Appeal Brief, Page 6, lines 2-4). Examiner asserts that Zak discloses the claimed timer for selectively limiting the time of actuation of an apparatus as recited in claims 1 and 10, as described in the prior Office Action. In Zak, the monostable multivibrator operates as a timer to provide a timed-ON operation of the attached apparatus ("load device"), thereby limiting the time of actuation of the apparatus:

"a monostable multivibrator can be used to achieve a timed ON actuation, at the end of which the load device is automatically switched OFF" (Zak, Col. 3, lines 17-20)

The selection of the actuation of the apparatus is achieved by the laser light signal, specifically the reception of the laser light signal by the receiver unit:

"A switch actuator circuit 28, which may include a multi-vibrator circuit is actuated or triggered by the photosensor 24..." (Zak, Col. 3, lines 7-9)

Art Unit: 2878

"The user simply picks up the laser pointer 10 and points it at the remote actuator module. The beam 12 sweeps across the filter 26, and the laser wavelengths penetrate and are picked up by the photosensor inside the unit. This controls power to the lamp 50, e.g., to turn it on or off." (Zak, Col. 3, lines 53-58)

Thus, the selection by the timer (monostable multivibrator) is achieved when the input (photosensor) to the timer is triggered by the reception of the laser light signal. Therefore, Zak teaches a timer operatively associated with the receiver module to selectively limit the time of actuation of the apparatus, as recited in Claims 1 and 10.

Claims 2 and 11

Regarding Appellant's arguments on Claims 2 and 11, Appellant argues that Examiner has not established sufficient motivation for a *prima facie* case of obviousness, and that Examiner's motivation appears to have been gleaned from Appellant's disclosure. Examiner asserts that Zak is teaching a broad invention of a remote actuation switch that is applicable towards a variety of distinct and divergent apparatuses and systems, as Zak recites the incorporation of the device in a lamp (Zak, Fig. 3 and Col. 3, lines 48-65), a ceiling fan (Zak, Fig. 4 and Col. 4, lines 3-11), a dimmer switch (Zak, Fig. 5 and Col. 4, lines 13-25), and factory and industrial equipment (Zak, Fig. 6 and Col. 4, lines 26-45). Thus, incorporating the device of Zak into any particular environment (such as an agricultural environment for an electromechanical feeder as recited in Appellant's admitted prior art, Appellant's specification, Fig. 1 and Paragraphs 0002, 0005) would have been obvious to one of ordinary skill in the art, as the device of Zak is applicable to any system having a remote actuation switch. Appellant's admitted prior art was utilized only to show a particular type of device which is known to include

Art Unit: 2878

a remote actuation switch, and none of Appellant's admitted prior art was used for its teachings of any specific component within the remote actuation switch itself in which to incorporate into the device of Zak. Thus, the usage of Appellant's admitted prior art and its incorporation with Zak under 35 U.S.C. 103(a) is proper.

Claims 3 and 12

Regarding Appellant's arguments on Claims 3 and 12, Appellant argues that Examiner has not established sufficient motivation for a prima facie case of obviousness. Specifically, Appellant alleges that "*The Examiner's motivation ('to provide multiple control signal types for each device to provide additional control of functionality') does not provide reasons... that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify Zak to include the claim limitation of claims 3 and 12*" (Appeal Brief, Page 11, lines 12-16). Examiner asserts that Teremy provides multiple control signal types ("first state" for commencing initial camera functions, and a "second state" for actuating the shutter and recording a camera image, in Col. 3, line 55 to Col. 4, line 12) accomplished by transmitting a known, sparsely modulated laser light signal (Col. 3, lines 58-63, Col. 4, lines 1-4). Examiner asserts that one of ordinary skill in the art realizes that a table lamp has different brightness settings (such as a 3-way 50W/100W/150W incandescent bulb) controlled by a successive turn of a knob or a successive pull of a pull-cord, and that a ceiling fan typically has different speed settings (LOW/HIGH) controlled by a successive pull of a pull-cord. Further, Zak discloses a lamp having different brightness settings:

"A touch-dimmer wall switch arrangement 54 is shown in FIG. 5. Here there is a touch plate 56 which increments the brightness of an associated lamp up or down each time the user touches the plate, or gradually changes the brightness

Art Unit: 2878

of the lamp if the user holds his or her finger on the plate 56." (Zak, Col. 4, lines 12-16)

and also discloses controlling the fan speed of a ceiling fan:

"As shown in FIG. 4, a ceiling fan 52 may have the remote operator 20 incorporated in its motor housing (or elsewhere) and permits the user to control the fan speed by use of the hand held laser, from some distance from the fan." (Zak, Col. 4, lines 3-6, emphasis placed in underline)

Thus, Zak discloses multiple operating states (different brightness states for a lamp, different speed states for a fan) for the apparatus controlled by the switch, and incorporating the teachings of Teremy into the Zak invention would provide a "one-touch" solution to selecting a particular operating state for the attached apparatus via the remote actuation switch.

Appellant further alleges that "*Teremy teaches having a relatively bright laser beam which is useful in aiming the remote controller...*" (Appeal Brief, Page 12, lines 9-10) and that "*there is no motivation though for modifying Zak to control the brightness of a laser beam.* *There is no need to modify Zak to change the brightness of a laser beam*" (Appeal Brief, Page 12, lines 13-14). Examiner agrees with Appellant that there is no motivation or reasoning to modify Zak to change the brightness of the laser beam- however, claims 3 and 12 do not recite changing the brightness of the laser beam and Examiner did not use the specific teachings of Teremy referring to changing the brightness of the laser beam. Instead, Examiner utilized the teachings of Teremy of a modulation of the laser light signal for different transmission states, as discussed by Teremy in Col. 3, line 55 to Col. 4, line 12 ("first state" vs. "second state") and the detection by the receiver of the different transmission states for performing different actions according to the detected state. As applied to Zak, this teaching provides the capability of

transmitting multiple states from the laser transmitter to the receiver for "*different operating states for a lamp (different brightness settings) or a ceiling fan (different speed settings), both devices which are disclosed by Zak (see Col. 2, lines 33-36)*" (recited by Examiner in a prior Office Action and repeated by Appellant in Appeal Brief, Page 13, lines 2-5).

Appellant also argues that "*the examiner has not provided any evidence that one of ordinary skill in the art would be motivated to modify Zak, which simply teaches integrating the housing or body of a load device into a ceiling fan or a table lamp, to have different brightness settings for a lamp or to have different speed settings for a ceiling fan. That is, the Examiner has not provided any reasons as to why one of ordinary skill in the art would modify Zak to have different brightness settings for a lamp or to have different speed settings for a ceiling fan.*"

(Appeal Brief, Page 13, lines 13-19). Appellant further argues that "*claims 3 and 12 do not recite having different brightness settings for a lamp or having different speed settings for a ceiling fan. Instead, claims 3 and 12 recite a laser module adapted to produce a known, sparsely modulated laser light signal*" (Appeal Brief, Page 13, lines 19-22). Examiner asserts that it is well known to one of ordinary skill in the art that a table lamp has different brightness settings (such as a 3-way 50W/100W/150W incandescent bulb) controlled by a successive turn of a knob or a successive pull of a pull-cord, and that a ceiling fan typically has different speed settings (LOW/HIGH) controlled by a successive pull of a pull-cord. Further, Zak discloses a lamp having different brightness settings:

"A touch-dimmer wall switch arrangement 54 is shown in FIG. 5. Here there is a touch plate 56 which increments the brightness of an associated lamp up or down each time the user touches the plate, or gradually changes the brightness of the lamp if the user holds his or her finger on the plate 56." (Zak, Col. 4, lines 12-16)

and also discloses controlling the fan speed of a ceiling fan:

"As shown in FIG. 4, a ceiling fan 52 may have the remote operator 20 incorporated in its motor housing (or elsewhere) and permits the user to control the fan speed by use of the hand held laser, from some distance from the fan." (Zak, Col. 4, lines 3-6, emphasis placed in underline)

Thus, providing different brightness settings for a lamp or having different speed settings for a ceiling fan is obvious to one of ordinary skill in the art, and is also discussed by Zak.

Appellant also argues that *In Re Stevens* (relied upon in Examiner's arguments in a prior Office Action for further motivation of the obviousness rejection for Claims 3 and 12) precedes *Graham v. John Deer Co.* and that "*the holdings of Graham may overrule the holdings of In re Jones*" (Appeal Brief, Page 14, lines 12-14). First, Examiner asserts that it appears that Appellant intended to cite *In Re Stevens* instead of *In Re Jones* in the aforementioned passage in the Appeal Brief. Further, the opinion of *Graham* does not discuss the provision of adjustability, and therefore does not conflict with the findings of *In Re Stevens* towards the provision of adjustability as obvious to one of ordinary skill in the art.

Claims 4-6 and 13-15

Regarding Appellant's arguments on Claims 4-6 and 13-15, Appellant argues that "*the Examiner's motivation is insufficient to support a prima facie case of obviousness for at least the reasons stated below*" (Appeal Brief, Page 16, lines 13-15) and that "*the Examiner must provide evidence that one of ordinary skill in the art would modify Zak to include a telescopic sight operatively associated with the laser module to accommodate selective directing of the known laser light signal through use of the telescopic sight in order to increase the accuracy and range*

Art Unit: 2878

for operating the laser module by an operator" (Appeal Brief, Page 16, lines 18-23). Appellant further argues that "The Examiner's motivation is to increase the accuracy and range for operating the laser module by an operator... the Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak... there is no discussion in Zak of there being any problems related to the lack of accuracy or range for operating the laser module" (Appeal Brief, Page 17, lines 17-22). Examiner asserts that Zak discusses the incorporation of the device for a factory or for industrial equipment (Zak, Col. 4, lines 29-31) and placing the receiver device in a distant location:

"This arrangement permits the power switch to be located high above the factory floor, where it can be visible and actuated from the entire floor, if need be." (Zak, Col. 4, lines 44-46, emphasis placed in underline)

Thus, providing a modification as taught by Schwartz in assisting in the aiming of a laser beam towards a desired target by use of an attached telescopic sight, would permit a factory worker on the factory floor to more easily aim the laser transmitter and impinge the transmitted laser beam upon the distant receiver device. Further, telescopes are inherently optical magnification devices for "zooming" into a field of view, and that telescopic sights, as taught by Schwartz, "permit accurate sighting of the rifle for distant targets" (Schwartz, Col. 1, lines 18-20), and in combination with an attached laser light source, "*significantly facilitates alignment of the weapon... [and] can be made for permitting conventional optical use of the telescope sight... simultaneously with, utilization of the laser light source projected through the telescope sight toward the target*" (Schwartz, Col. 2, lines 1-6). Thus, Schwartz teaches in the cited portions that the attachment of a telescopic sight with a laser light source provides improved vision and alignment of the transmitted laser beam with a desired target. Examiner asserts that providing

Art Unit: 2878

such benefits towards Zak are obvious to one of ordinary skill in the art, especially in a factory environment as described by Zak, where the receiver device is located at a distant location.

Appellant also contends that "*Schwartz's purpose ... is to provide an optically reliable mount which is reasonably low cost and which is universal in application for use to couple devices... Column 2, lines 28-33*" (Appeal Brief, Page 18, lines 19-22). Examiner asserts that while the purpose of Schwartz's novel invention is consistent with Appellant's cited portion, the teachings in Schwartz (Col. 1, lines 39-46 and Col. 1, line 66 to Col. 2, line 7) cited by Examiner for the rejection of Claims 4-6 and 13-15 involved only the background section of Schwartz which Schwartz acknowledged as prior art. Thus, the purpose of Schwartz for an "optically reliable mount" as described for his inventive features is irrelevant, as Examiner does not utilize any of the inventive features of Schwartz for the rejection of Claims 4-6 and 13-15.

Appellant further argues that Examiner's motivation appears to be gleaned from Applicant's disclosure. Examiner asserts that the motivation for applying the teachings of Schwartz towards the device of Zak are found by the aforementioned benefits conveyed by Schwartz in combining a laser light source with a telescopic sight, along with the environment of Schwartz of having a receiver device which is distant in a factory environment or also a distantly-located lamp or ceiling fan. Thus, Examiner's motivation is derived from these sources and not from Appellant's disclosure.

Appellant also argues that Schwartz is not analogous art, as "*the Schwartz reference addresses the problem of providing an optically reliable mount which is of reasonably low cost and which is universal in application for use to couple devices...*" (Appeal Brief, Page 20, lines 9-11). As already mentioned, while the purpose of Schwartz's novel invention is consistent with

Art Unit: 2878

Appellant's cited portion, the teachings in Schwartz cited by Examiner for the rejection of Claims 4-6 and 13-15 involved only the background section of Schwartz which Schwartz acknowledged as prior art. Thus, the purpose of Schwartz for an "optically reliable mount" and its "low cost" and "universal" features as described for his inventive features is irrelevant, as Examiner does not utilize any of the inventive features of Schwartz for the rejection of Claims 4-6 and 13-15. Further, the features in Schwartz cited by Examiner pertain to the alignment of a laser light beam emitted from a laser light source towards a desired target. Thus, Schwartz is consistent towards the desired intent of Zak of aligning an emitted laser beam with a desired target (receiver device). As such, the cited teachings of Schwartz by Examiner are analogous towards the invention of Zak.

Claims 7 and 16

Regarding Claims 7 and 16, Appellant argues that "*the Examiner's motivation is insufficient to support a prima facie case of obviousness*" (Appeal Brief, Page 22, lines 9-10) and "*the Examiner's motivation is to provide remote actuation of an explosive device for accurate detonation... the Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation*" (Appeal Brief, Page 23, lines 16-19). Examiner asserts that Zak is teaching a broad invention of a remote actuation switch that is applicable towards a variety of distinct and divergent apparatuses and systems, as Zak recites the incorporation of the device in a lamp (Zak, Fig. 3 and Col. 3, lines 48-65), a ceiling fan (Zak, Fig. 4 and Col. 4, lines 3-11), a dimmer switch (Zak, Fig. 5 and Col. 4, lines 13-25), and factory and industrial equipment (Zak, Fig. 6 and Col. 4, lines 26-45). Thus, incorporating the device of Zak into any particular environment (such as a military environment for a remote detonation

device as taught by Teetzel) would have been obvious to one of ordinary skill in the art, as the device of Zak is applicable to any system having a remote actuation switch.

Claims 8 and 17

Regarding Claims 8 and 17, Appellant argues that "Kaje does not teach 'a laser light actuation system for remotely and selectively actuating a function of a known electromechanical gate' as recited in claim 8 and similarly in claim 17" (Appeal Brief, Page 24, lines 5-7) and that while the pre-grant publication of Kaje (US 2003/0122665) discloses language pertaining to a garage door, automatic door, automatic barrier for buildings, etc., that the issued patent (US 6,897,765) for the patent application of Kaje does not recite the aforementioned language as Kaje appears to have deleted the language from the finally-issued patent. Examiner asserts that while the final issued patent for Kaje might not disclose the particular features recited in the pre-grant publication, the pre-grant publication of Kaje is still a fully functional disclosure and stands on its own for the purposes of a reference for prior art under 35 U.S.C. 102 and 103 (for example, a pre-grant publication remains a valid disclosure even when its associated patent application is abandoned). As Examiner cited only the pre-grant publication of Kaje (US 2003/0122665) for Examiner's rejection, the contention regarding Kaje US 6,897,765 is irrelevant.

Appellant also argues that by relying on the issued patent (US 6,897,765), Kaje only teaches remotely activating a doorbell and not an electromechanical gate as recited in Claims 8 and 17. As Examiner relied on the pre-grant publication of Kaje (US 2003/0122665) for the rejection of Claims 8 and 17, and Kaje US 2003/0122665 teaches an electromechanical gate, Appellant's arguments directed towards Kaje US 6,897,765 are moot.

Art Unit: 2878

Appellant further argues that "*the Examiner though has not provided any motivation for modifying Kaje with Perkins to include the aspect of adapting the laser receiver module to be positioned in use in a selectively concealed location*" (Appeal Brief, Page 27, lines 8-10).

Examiner asserted that concealing a security device in a location unknown to unauthorized individuals was well known in the art, to increase the security of the secured areas by preventing unauthorized individuals from having knowledge of the security device and tampering with it, as evidenced by Perkins in paragraphs 0006 and 0024. Examiner further asserts that general improvements towards the security of a security device are obvious to one of ordinary skill in the art, as a security device inherently serves to establish a secure area or object, and a concealment of a security component, whether an access point or the area/object itself, is a primary form of security.

Appellant further argues that Perkins is not analogous art and "*is not in the same field as Appellant's endeavor*" (Appeal Brief, Page 28, line 3). Examiner asserts that both Kaje and Perkins pertain to security devices for granting or denying access to a secured area, and thus, are analogous art. Also, while Perkins may not be in the same field as Appellant's invention, Perkins is analogous to Kaje. Further, Appellant utilizes an embodiment of his invention as a feeder (Appeal Brief, Page 28, lines 1-7), presumably in the agricultural environment, in applying the argument of non-analogous art between Perkins and Appellant's invention. However, Appellant's Claims 8 and 17 refer to an actuation of an electromechanical gate and not a feeder, so Appellant's comparison of Perkins with Appellant's embodiment of a feeder is irrelevant.

Applicant also argues that "*the Examiner's motivation is insufficient to support a prima facie case of obviousness*" (Appeal Brief, Page 29, lines 25-26). Examiner asserted that

Art Unit: 2878

concealing a security device in a location unknown to unauthorized individuals was well known in the art, to increase the security of the secured areas by preventing unauthorized individuals from having knowledge of the security device and tampering with it, as evidenced by Perkins in paragraphs 0006 and 0024. Examiner further asserts that general improvements towards the security of a security device are obvious to one of ordinary skill in the art, as a security device inherently serves to establish a secure area or object, and a concealment of a security component, whether an access point or the area/object itself, is a primary form of security.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

SY

Conferees:

Georgia Epps *Georgia Epps*
David Blum *D.B.*
Appeals TOA

Georgia Epps
Georgia Epps
Supervisory Patent Examiner
Technology Center 2800